IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.211 OF 2006

Bhanumati Shyamnarain Singh & Ors. ...Petitioners
Vs.
The State of Maharashtra & Ors. ...Respondents

Ms Kinjal Havia i/by Shri J.S.Kini for the Petitioners.
Shri A.S.Shinde, A.P.P. for the Respondent No.1.
Shri Amit Jambhotkar for the Respondent No.2.

CORAM : A. S. OKA, J.
DATE : AUGUST 16, 2006.

P.C.:

1. Rule. The learned A.P.P. waives service for the Respondent No.1 and the Advocate for the Respondent No.2 waives service. Considering the facts and circumstances, taken up for hearing forthwith.

2. The first Petitioner is the mother-in-law of the Respondent No.2. The second Petitioner is the father-in-law of the Respondent No.2 and the third Petitioner is the sister-in-law of the Respondent No.2.

3. The Respondent No.2 lodged F.I.R. alleging commission of offence under section 498-A read with section 34 of the Indian Penal Code. On the basis of

the F.I.R., the Respondent No.1 has filed chargesheet in the court in the learned Metropolitan Magistrate, Mumbai. The third Respondent is the husband of the second Respondent. The third Respondent filed a Petition for divorce in the Family Court at Mumbai. It is stated in this Petition that on 20th January, 2006 consent terms were filed in the said Petition and the dispute between the second and the third Respondent has been finally settled. Paragraph Nos.8 and 9 of the consent terms filed before the Family Court read thus:

> "8. The respondent shall withdraw the said amount after the disposal of the criminal case pending at Metropolitan Magistrate, Andheri Court, vide No.463/:/03, CR.No.15/03, under Section 498A of IPC, either by compounding/withdrawal of the same.
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> 9. The petitioner if required, shall file a proceeding for quashing of the said criminal case before the Hon'ble High Court where the respondent shall give her complete co-operation."

4. Prayer in this Petition is for quashing the proceedings of the criminal case pending before the court of the learned Metropolitan Magistrate.

5. The second Respondent who is the first informant has filed affidavit dated 17th April, 2006. In the said affidavit the second Respondent has confirmed correctness of the material averments made in the Petition. Paragraph No.4 of the said affidavit reads thus:

> "4. I state that in pursuance of the consent terms filed before the Family Court, the Respondent No.3 has further deposited a sum of Rs.6,93,000/- with the Family Court to be paid to me. Hence the proceedings against the Petitioners and Respondent Nos.3 and 4 initiated in pursuance of my F.I.R., vide C.C.No.463/p/2003 (Exhibit 'A' to the Petition) be quashed."

6. The learned Advocate appearing for the Respondent No.2 states that the F.I.R. was filed as a

result of matrimonial dispute between the second and third Respondent and as there is complete settlement of dispute, he has no objection if prayer clause (a) is granted. I have heard the learned A.P.P. for the State.

7. In view of what is stated above, a case is made out for quashing the proceedings pending before the court of the learned Metropolitan Magistrate. Accordingly, Rule is made absolute in terms of prayer clause (a). There will be no orders as to costs.

8. Parties and the concerned court to act upon an authenticated copy of this order.

JUDGE